

103D CONGRESS  
1ST SESSION

# S. 598

To amend the National Labor Relations Act to provide for expedited adjudication of unfair labor practice charges, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, MARCH 3), 1993

Mr. DURENBERGER introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the National Labor Relations Act to provide for expedited adjudication of unfair labor practice charges, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Perma-  
5 nently Displaced Striking Workers Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) when employers fail to bargain in good faith  
9 and hire permanent replacements, the National  
10 Labor Relations Board and its administrative law

1 judges take too long to vindicate the rights of strik-  
2 ing workers guaranteed under the National Labor  
3 Relations Act;

4 (2) undue delay in the adjudication of unfair  
5 labor practice charges during labor disputes where  
6 permanent replacements have been hired also un-  
7 fairly prejudices employers by forcing them to pay  
8 striking workers unnecessarily large backpay awards  
9 if the National Labor Relations Board or an admin-  
10 istrative law judge ultimately sustains an unfair  
11 labor practice charge and issues a reinstatement  
12 order; and

13 (3) the lack of timely adjudication of unfair  
14 labor practice charges in connection with labor dis-  
15 putes where permanent replacements have been uti-  
16 lized poses an obstacle to continued stable labor re-  
17 lations in the United States.

18 (b) PURPOSES.—It is the purpose of this Act—

19 (1) to provide for the expedited adjudication of  
20 unfair labor practice charges when permanent re-  
21 placements have been hired; and

22 (2) to restore justice for striking workers exer-  
23 cising their legal rights secured under the National  
24 Labor Relations Act.

1 **SEC. 3. FACILITATE ADJUDICATION OF UNFAIR LABOR**  
2 **PRACTICE CHARGES.**

3 (a) PRIORITY OF CASES.—Section 10(m) of the Na-  
4 tional Labor Relations Act (29 U.S.C. 160(m)) is amend-  
5 ed—

6 (1) by striking out “(a)(3) or (b)(2)” and in-  
7 serting in lieu thereof “(a)(3), (a)(5), (b)(2), or  
8 (b)(3)”; and

9 (2) by adding at the end thereof the following  
10 new sentence: “In cases where a collective bargain-  
11 ing agreement has expired and a person alleges that  
12 a party to a collective bargaining agreement has  
13 failed to negotiate in good faith as required by the  
14 Act, and where permanent replacements have been  
15 hired, an expedited investigation and adjudication  
16 procedure shall be available as described in sub-  
17 section (n).”.

18 (b) TIMETABLE FOR ADJUDICATION.—Section 10 of  
19 such Act (29 U.S.C. 160) is amended by adding at the  
20 end thereof the following new subsection:

21 “(n)(1) In cases described in the last sentence of sub-  
22 section (m), administrative law judges shall have 60 days  
23 in which to hold a hearing after a complaint has been filed  
24 under this section. After such hearing has occurred and  
25 the parties have filed their briefs with respect to such, the

1 administrative law judge involved shall have not more than  
2 60 days to issue a decision with respect to such case.

3 “(2) A party in a case described in paragraph (1)  
4 shall have 30 days in which to file a brief with the Board  
5 containing exceptions to the decision of an administrative  
6 law judge under such paragraph. Other parties shall have  
7 15 days in which to file their briefs in response to such  
8 exceptions.

9 “(3) The Board shall have 90 days after the date on  
10 which a brief has been filed under paragraph (1), to issue  
11 a decision in the case. Such period may be extended for  
12 an additional 30 days if an oral argument is scheduled.

13 “(4) By mutual agreement of the parties, the time-  
14 tables contained in paragraphs (1) through (3) may be  
15 extended as agreed upon.

16 “(5) If the administrative law judge fails to meet any  
17 deadline contained in this subsection, the administrative  
18 law judge shall notify the parties, the National Labor Re-  
19 lations Board, and the Committee on Labor and Human  
20 Resources of the Senate and explain the reasons for the  
21 delay. The notification and reasons for the delay shall be  
22 submitted by the administrative law judge for publication  
23 in the Federal Register.

24 “(6) If the National Labor Relations Board fails to  
25 meet any deadline in this subsection, the Chairman of the

1 National Labor Relations Board shall notify the Commit-  
2 tee on Labor and Human Resources of the Senate and  
3 explain the reasons for the delay. The notification and rea-  
4 sons for the delay shall be submitted by the National  
5 Labor Relations Board for publication in the Federal  
6 Register.”.

7 **SEC. 4. EFFECTIVE DATE.**

8 This Act shall become effective upon the date of en-  
9 actment of this Act.

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